

BEFORE

THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-247-A - ORDER NO. 1999-878

DECEMBER 15, 1999

IN RE: Proposed Regulation Regarding the Creation) ORDER ✓
of an Appearance Bond.) PROMULGATING
) REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") for a hearing on a proposal to add Regulation 103-805, which requires an appearance bond in the amount of two hundred fifty dollars to be filed with any application that may require a hearing before the South Carolina Public Service Commission. Furthermore, the appearance bond will be returned to the applicant if the applicant appears at the scheduled hearing.

Accordingly, after due notice in the State Register, a hearing was held before the Commission on November 17, 1999, at 10:30 a.m. at 101 Executive Center Drive in Columbia, South Carolina 29210. The Honorable William Saunders, Vice Chairman, presided. Jocelyn Green, Staff Counsel, represented the Commission Staff, and presented Gary E. Walsh, Executive Director of the Public Service Commission. John J. Pringle, Jr., Esquire, appeared and testified as a member of the public. No other presentations were made, nor were any other written comments received.

Walsh testified that, in In Re: Application of Telecom Resources, Incorporated for Authority to Operate as a Reseller of Interexchange Telecommunications Services

Within the State of South Carolina, Order No. 1999-264, issued in Docket No. 1998-162-C (April 12, 1999), the Commission dismissed Telecom Resources, Incorporated's application without prejudice because the Company failed to appear for three scheduled hearings. Further, the Commission instructed the Commission Staff to perform a feasibility study concerning the implementation of filing fees with applications. On June 1, 1999, the Commission directed its Staff to create a regulation which requires an appearance bond in the amount of two hundred fifty dollars to be filed with any application that may require a hearing before the Public Service Commission. Walsh testified further that the appearance bond has been resuscitated by a continuing trend wherein applicants simply do not appear for scheduled hearings. Other states such as Florida, Georgia, and North Carolina require applicants to include non-refundable filing fees with their applications. Additionally, Walsh stated if an applicant appears at the scheduled hearing, the appearance bond will be returned to the applicant at the time the Commission renders a final decision in the matter. However, if the Commission determines that the appearance bond should be forfeited for non-compliance with Commission orders, then the appearance bond will be included in the Commission's General Fund and used to offset expenses in the next year's proposed budget. The appearance bond can be posted with the Commission in the form of a check or money order.

John J. Pringle, Jr., Esquire, appeared and testified that he has represented over thirty clients before the Commission. Mr. Pringle stated that he thought the appearance bond will help to address the problem of applicants who fail to appear for scheduled

hearings; however, he made a few suggestions for the Commission to consider in their deliberation on the proposed appearance bond. First, he suggested that the Commission consider waiving the appearance bond for clients who are represented by local counsel because local counsel is in constant contact with the Commission Staff. Second, Mr. Pringle suggested that the Commission waive the filing fee for an application that contains a Motion For Expedited Review. Finally, Mr. Pringle requested that the Commission and its Staff work to establish a set form to be used for bonds.

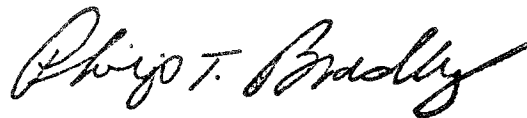
The Commission Staff submitted into the record of this case the jurisdictional documents, including the statement of need and reasonableness as determined by the agency based on an analysis of the factors listed in S.C. Code Ann. Section 1-23-115 (C) (1) through (11), except items (4) through (8).

We have examined the proposed new regulation regarding the creation of an appearance bond which should be filed with any application that may require a hearing before the Public Service Commission. We hold that the proposed regulation should be promulgated. Further, we find that when hearings are scheduled before the Public Service Commission, the applicant, the intervenor, and the Commission Staff must prepare diligently to present a meritable case before this Commission. We find that, pursuant to the testimony of Staff witness Walsh, there is a need for this Commission to create an appearance bond to encourage applicants to appear for scheduled hearings. In addition, we believe that the enactment of this regulation will promote efficient use of docket scheduling instead of misuse of the Commission's hearing schedule during a time of increasing pressure for hearing dates. Promulgation of this regulation will also help to

defray the administrative costs associated with scheduled hearings. There will be no costs to the State or any political subdivisions due to this regulation nor will there be a detrimental effect on the environment and public health.

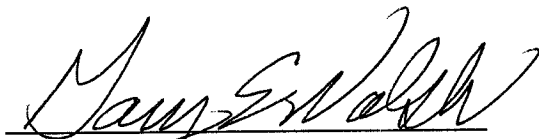
Accordingly, because of the reasoning stated above, we hereby promulgate the proposed regulation as filed. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)